

CITY OF SAN JOSÉ, CALIFORNIA
Department of Planning, Building and Code Enforcement
801 North First Street, Room 400
San José, California 95110-1795

STAFF REPORT

Hearing Date/Agenda Number
PC 05-12-04 Item: 3.p.

File Number
CP04-004

Application Type
Conditional Use Permit

Council District
6

Planning Area
Willow Glen

Assessor's Parcel Number(s)
284-07-011

PROJECT DESCRIPTION

Completed by: Ed Schreiner

Location: East side of Saint Elizabeth Drive approximately 530 feet southerly of McKinley Avenue

Gross Acreage: 2.0

Net Acreage: 2.0

Net Density: n/a

Existing Zoning: R-M

Existing Use: convent and guest house for seniors

Proposed Zoning: No Change

Proposed Use: Senior Center, Residential Care Facility and Adult Daycare

GENERAL PLAN

Completed by: ES

Land Use/Transportation Diagram Designation
High Density Residential (25-50 DU/AC)

Project Conformance:
☒ Yes ☐ No
☐ See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

Completed by: ES

North: Adult Daycare

R-1-8 Residence

East: Public Park and Los Gatos Creek

R-1-8 Residence

South: Multi-family Attached Residential

R-M Residence

West: Single-Family Attached Residential

R-M Residence

ENVIRONMENTAL STATUS

Completed by: ES

☐ Environmental Impact Report found complete
☐ Negative Declaration circulated on
☐ Negative Declaration adopted on

☒ Exempt
☐ Environmental Review Incomplete

FILE HISTORY

Completed by: ES

Annexation Title: Hamilton No. 49

Date: 4/17/81

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

☒ Approval
☐ Approval with Conditions
☐ Denial
☐ Uphold Director's Decision

Date:

Approved by: _____
☒ Action
☐ Recommendation

OWNER

APPLICANT/DEVELOPER

Sisters of the Holy Family
159 Washington Blvd.
Fremont, CA 94539

Self Help for the Elderly
Attn: Rosalyn C. Koo
407 Sansome St, Suite 300
San Francisco, CA 94111

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: ES

Department of Public Works

See attached memorandum from Public Works

Other Departments and Agencies

See attached memorandum from Fire Department

GENERAL CORRESPONDENCE

None.

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The applicant, Self Help for the Elderly, is requesting a Conditional Use Permit to allow the use of an existing 28,223 square foot building for a residential care facility, a senior center and an adult day care facility on a 2.0 gross acre site in the R-M Residence Zoning District. Each of the proposed uses requires a Conditional Use Permit in the R-M Residence Zoning District. This Conditional Use Permit will also serve as a Site Development Permit for minor modifications to the building and site.

The building was constructed as a residential convent in 1964 and became legal non-conforming when the site was annexed to the City in 1981 with a zoning of R-1 Residence District. On September 13, 1991, the Director of Planning approved a Special Use Permit (File No. SP91-008) to allow conversion of a portion of the legal non-conforming facility to a guest house for seniors. A conforming rezoning of the site (File No. C03-089) was approved by the City Council on December 16, 2003. This rezoning changed the zoning on this site from R-1-8 to R-M Residential to facilitate approval of the proposed uses with a Conditional Use Permit.

Adjacent uses include a day care center to the north, a public park and Los Gatos Creek to the east, single-family attached residential uses to the west and multi-family residential use to the south. A pending Planned Development Permit located at the southwestern corner of Meridian Avenue and Curci Drive (File No. PD03-076) proposes 130 residential care facility units for seniors. The neighborhood is generally characterized by residential uses.

The existing building on the site contains thirty-eight residential rooms with a central kitchen, chapel, community rooms and outdoor courtyards.

Project Description

The project proposes to renovate the existing building to accommodate the proposed residential care facility, adult day care center and senior center (see attached *Program Information*). The senior center will employ six staff members and will include 3,692 square feet of floor space at

the southern end of the first floor of the building. The senior center will provide meals, English as a Second Language classes, citizenship classes, recreational activities and wellness programs and services for up to 60 seniors. These services will be provided Monday through Friday from 9:00 a.m. to 4:00 p.m.

The adult daycare will occupy 3,930 square feet of the existing building in the northern part of the first floor, providing rehabilitative therapies, nursing and personal care services, medical social services, recreation activities and nutrition services for up to 60 seniors. Off-site participants in this program will be transported to and from the center using vans or paratransit vehicles that carry up to 12 passengers each. The existing loading dock is proposed to be modified to provide an accessible entrance to the daycare facility. Daycare services will be provided Monday through Friday, 9:15 am to 3:15 pm and will employ a staff of six people.

The rest of the building (which consists of the central section of the first floor and the entire second floor – approximately 19,950 square feet) will be used as a residential care facility for the elderly. A total of 40 single-bed units will be provided for up to 40 seniors who need 24-hour, seven-day-a-week assistance and care. None of the residents will have their own personal vehicles. Four program staff and 15 support staff (cooks, housekeeping, aides) are proposed to cover day, evening, night and weekend shifts.

ENVIRONMENTAL REVIEW

Under the provisions of Section 15332 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. The project involves an infill site of less than five acres; is consistent with the General Plan; will not result in any new significant environmental effects relating to traffic, noise, air quality, or water quality; and is adequately served by all required utilities and public services.

GENERAL PLAN CONFORMANCE

The proposed project is consistent with the site's San José 2020 General Plan Land Use/Transportation Diagram designation of High Density Residential (25-50 DU/AC). The General Plan encourages infill development and the distribution of residential care facilities throughout the City, including appropriate residentially-designated locations.

COMMUNITY OUTREACH

A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site. Staff has been available to discuss the project with interested members of the public. A copy of the staff report for this project has been posted on the City of San José web site to facilitate public review of the proposal.

ANALYSIS

The primary issues for this project are land use compatibility, conformance with Title 20 parking requirements and conformance with the Riparian Corridor Policy.

Land Use Compatibility

The proposed uses are compatible with the existing facilities on the site and with the surrounding uses. The building, which was designed for communal living, includes bedrooms, kitchen facilities, offices, and large common rooms that lend themselves to the proposed uses. Three outdoor courtyard areas provide ample enclosed open space for the proposed residential and day use programs. The proposed use of the facility is similar in intensity to that of the single-family attached and multi-family uses in the surrounding neighborhood. Parking and outdoor activity areas of the subject site are focused at the rear of the building which is buffered from other residential uses by an existing child daycare facility to the north, Los Gatos Creek to the east and a pool/recreation facility (associated with a multi-family residential development) to the south.

Conforming with Title 20 Parking Requirements

The parking requirement for residential care facilities is 1 space per first 6 client beds, plus one additional space for up to 4 client beds (or portion thereof) above the first six, plus one space for each employee or staff member. The applicant is proposing 40 beds and maximum of 8 staff members on duty at any one time, resulting in a requirement of 18 spaces for the residential care facility. For daycare uses Title 20 requires 1 space per first 6 clients (up to 5 spaces) and thereafter 1 space per 10 clients, resulting in a requirement of parking 8 spaces for the proposed 60 daycare clients. For a senior center, which is considered a community center use, the Code requires 1 space per 200 square feet of assembly area, plus 1 per 500 square feet of exterior recreation space. The senior center includes 3,692 square feet of assembly area and approximately 1,000 square feet of outdoor recreation space, resulting in a parking requirement of 21 spaces. Based on this analysis, Title 20 requires 47 parking spaces for the combined uses proposed for the site. The project provides a total 49 spaces in conformance with this requirement.

Riparian Setback

The site lies adjacent to the Los Gatos Creek Corridor. Prior to submission of the current application, a small parking area was constructed without benefit of permits at the rear of the site, within 30 feet of the edge of the riparian corridor. The remaining improvements within 100 feet of the creek corridor are legal non-conforming and were constructed prior to the current riparian setback requirements. The applicant has agreed to remove the unpermitted pavement within the 30-foot setback area and replace it with native or native-compatible landscaping in conformance with the Riparian Corridor Policy.

Conclusion

Based on the above analysis, staff concludes that the proposed project is consistent with the requirements of the Zoning Code and Riparian Corridor Policy and compatible with the characteristics of the existing site and surrounding neighborhood

RECOMMENDATION

The Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following findings and conditions in its Resolution.

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of High Density Residential (25-50 DU/AC) on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
2. The project site is located in the R-M Residence Zoning District.
3. The site was annexed to the City in 1981.
4. An existing residential convent constructed on the site in 1964 became legal nonconforming upon annexation.
5. On September 13, 1991, the Director of Planning approved a Special Use Permit (File No. SP91-008) to allow conversion of a portion of the legal non-conforming facility to a guest house for seniors.
6. A conforming rezoning of the site (File No. C03-089) was approved by the City Council on December 16, 2003. This rezoning changed the zoning on the site from R-1-8 to R-M to facilitate approval of the proposed uses with a Conditional Use Permit.
7. Uses adjacent to the site include a day care center to the north, a public park and Los Gatos Creek to the east, single-family attached residential uses to the west and multi-family residential use to the south. A pending Planned Development Permit located at the southwestern corner of Meridian Avenue and Curci Drive (File No. PD03-076) proposes 130 residential care facility units for seniors.
8. The 2.0-acre project site contains an existing 28,223 square-foot building. The existing building contains thirty-eight residential rooms with a central kitchen, chapel, community rooms and outdoor courtyards.
9. The project proposes to renovate the existing building to accommodate the proposed residential care facility, adult day care center and senior center. The senior center will employ six staff members and will include 3,692 square feet of floor space at the southern end of the first floor of the building. The senior center will provide meals, English as a Second Language classes, citizenship classes, recreational activities and wellness programs and services for up to 60 seniors. These services will be provided Monday through Friday from 9:00 am to 4:00 pm.
10. The adult daycare will occupy 3,930 square feet of the existing building in the northern part of the first floor, providing rehabilitative therapies, nursing and personal care services, medical social services, recreation activities and nutrition services for up to 60 seniors. Off-site participants in this program will be transported to and from the center using vans or Paratransit vehicles that carry up to 12 passengers each. The existing loading dock is proposed to be modified to provide an accessible entrance to the daycare facility. Daycare services will be provided Monday through Friday, 9:15 am to 3:15 p.m. and will employ a staff of six people.
11. The rest of the building (which consists of the central section of the first floor and the entire

the elderly. A total of 40 single-bed units will be provided for up to 40 seniors who need 24-hour, seven-day-a-week assistance and care. None of the residents will have their own personal vehicles. Four program staff and 15 support staff (cooks, housekeeping, aides) are proposed to cover day, evening, night and weekend shifts.

12. The project was found to be exempt from further environmental review under the provisions of Section 15332 of CEQA.
13. The existing building, which was designed for communal living, includes bedrooms, kitchen facilities, offices, and large common rooms that lend themselves to the proposed uses. Three outdoor courtyard areas provide ample enclosed open space for the proposed residential and day use programs. The proposed use of the facility is similar in intensity to that of the single-family attached and multi-family uses in the surrounding neighborhood. Parking and outdoor activity areas of the subject site are focused at the rear of the building which is buffered from other residential uses by an existing child daycare facility to the north, Los Gatos Creek to the east and a pool/recreation facility to the south.
14. The parking requirement for residential care facilities is 1 space per first 6 client beds, plus one additional space for up to 4 client beds (or portion thereof) above the first six, plus one space for each employee or staff member. The applicant is proposing 40 beds and maximum of 8 staff members on duty at any one time, resulting in a requirement of 18 spaces for the residential care facility. For daycare uses, Title 20 requires 1 space per first 6 clients (up to 5 spaces) and thereafter 1 per 10 clients, resulting in a requirement of parking 8 spaces for the proposed 60 daycare client. For a senior center, which is considered a community center use, the Code requires 1 space per 200 square feet of assembly area, plus 1 per 500 square feet of exterior recreation space. The senior center includes 3,692 square feet of assembly area and approximately 1,000 square feet of the outdoor recreation space, resulting in a parking requirement of 21 spaces. Title 20 requires 47 parking spaces for the combined uses proposed for the site. The project provides a total 49 spaces.
15. The site lies adjacent to the Los Gatos Creek Corridor. Prior to submission of the current application, a small parking area was constructed without benefit of permits at the rear of the site, within 30 feet of the edge of the riparian corridor. The remaining improvements within 100 feet of the creek corridor are legal non-conforming and were constructed prior to the current riparian setback requirements. The applicant has agreed to remove the unpermitted pavement within the 30-foot setback area and replace it with native or native-compatible landscaping.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The proposed project is consistent with the adopted San José 2020 General Plan Land Use/Transportation Diagram of the City of San José.
2. The proposed project complies with all applicable provisions of the Zoning Ordinance.
3. The proposed project is in compliance with the California Environmental Quality Act.
4. The proposed project is consistent with the Riparian Corridor Policy.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
3. The proposed site is adequately served:
 - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
 - b. By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

CONDITIONS PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be **signed, notarized, and returned** to the Department of City Planning within **60 days** from the date of issuance of the resolution granting the permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.* Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.

CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated

1. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
2. **Conformance with Plans.** Construction and development shall conform to approved development plans entitled, "Self Help for the Elderly.," dated April 27, 2004, on file with the Department of City Planning and Building and to the San José Building Code (San José Municipal Code, Title 24).
3. **Nuisance.** This use shall be operated in a manner that does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
4. **Landscaping.** Planting and irrigation are to be provided, as indicated, on the final Approved Plan Set. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced by the property owner. Irrigation is to be installed in accordance with Part 4 of Chapter 15.10 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines.
5. **Allowed Uses.** This permit allows use of the site for residential care facility, senior center and adult day care uses.
6. **Residential Care Facility.** The residential care facility is limited to a maximum of 40 beds..
7. **Day Care.** The adult day care facility shall be limited to a maximum of 60 adult clients.
8. **Tree Removal on Private Property.** No tree larger than 56 inches in circumference, at a height of 24 inches above the natural grade slope, shall be removed without a Tree Removal Permit issued by the Director of Planning.
9. **Noise Limits.** Noise generated by the proposed use shall not exceed 55 dB DNL at any property line adjacent to a property used for residential purposes.
10. **Certification.** Pursuant to San José Municipal Code, Section 15.10.486, certificates of substantial completion for landscape and irrigation installation shall be completed by licensed or certified professionals and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project.
11. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. No outdoor storage

12. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
 - a. *Construction Plans.* This permit file number, CP 04-004 shall be printed on all construction plans submitted to the Building Division.
 - b. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
13. **Fire Lanes.** Fire lanes, suitably designated "FIRE LANE - NO PARKING," shall be provided to the satisfaction of the Fire Chief.
14. **Fire Flow.** Fire flow of 4,500 gallons per minute shall be provided to the satisfaction of the Fire Chief..
15. **Fire Hydrants.** Fire hydrants shall be provided to the satisfaction of the Fire Chief.
16. **Fire Sprinklers.** Buildings shall be provided with automatic fire extinguishing systems to the satisfaction of the Fire Chief. Systems serving more than 100 sprinklers shall be supervised by a remote alarm system.
17. **Emergency Access Drives.** All driveways required for emergency vehicle access shall be designed and tested for live load capacity of 69,000 pounds to accommodate fire apparatus.
18. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
19. **Public Works Clearance.** A Development Clearance shall be obtained from the Public Works Department, Room 308, (408) 277-5161, and is subject to the following requirements (3-16657) to the satisfaction of the Director of Public Works:
 - a. **Minor Improvement Permit:** The public improvements conditioned as part of this permit require the execution of a Minor Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This permit includes privately engineered plans, insurance, surety deposit, and engineering and inspection fees.
 - b. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
 - c. **Street:** Replacing existing HPS luminaires in electroliers along project frontage with LPS luminaires may be required.
 - d. **Street Improvements:**
 - 1) Applicant shall be responsible to remove and replace asphalt concrete, curb, gutter, and sidewalk damaged during construction of the proposed project.

- 2) Remove and replace broken or uplifted curb, gutter, and sidewalk along project frontage.

e. **Landscape:**

- 1) Install street trees within the public right-of-way along the entire street frontage per City standards. Trees shall be installed at the back of walk.
- 2) The locations of the street trees will be determined at the street improvement stage.
- 3) Contact the City Arborist at (408) 277-2756 for the designated street tree.

20. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.

21. **Signs.** No new signs are approved at this time.

CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.
2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
 - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.

Attachments

cc: Michael Cervantes, The Steinberg Group, 60 Pierce Avenue, San José, CA 95126
Alan Nakasato, 1095 Peralta, Albany, CA 94706